



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/202,247 01/03/95 NIEDERKANN

R MO-4188/LEA-

EXAMINER

IM52/1022

BAYER CORPORATION
PATENT DEPARTMENT
100 BAYER ROAD
PITTSBURGH PA 15205-9741

COONEY, J

ART UNIT

PAPER NUMBER

1711

DATE MAILED:

10/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/362,547

Applicant(s)

Wiedermann et al.

Examiner

John Cooney

Art Unit

1711

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 21, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-9 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other:

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Continued Prosecution Application

The request filed on September 21, 2001 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/362,547 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Volkert.

Volkert discloses processes for the production of rigid foams containing isocyanurate linkages prepared by mixing and reacting polyisocyanates, various 2 + hydroxyl group containing high molecular weight polyols, blowing agents-inclusive of alkanes alone or in conjunction with water, flameproofing agents, and chain extenders/crosslinkers (see the entire documents). Although the polyols of Volkert are not specifically described as being branched, it is held that such is an inherent property of the derived polyols of Volkert since Volkert utilizes similar initiators, such as trimethylolpropane, in the making of their polyether polyols.

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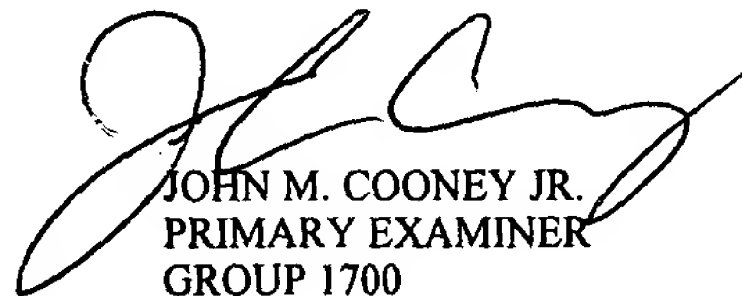
Volkert does differ from applicants' claims in that it does not particularly recite elevated NCO index values in the range of from 200 to 600. However, Volkert does set forth ranges of variation and selectivity in choosing the NCO contents for conducting the reactions of their concern, and it would have been obvious for one having ordinary skill in the art to have increased NCO indices in the processes of Volkert for the purpose of increasing the relative amount of isocyanate based material contained in the formed products in order to arrive at the products of applicants' claims in the absence of a showing of new or unexpected results.

Applicants' claims as amended have been considered. However, no differences in a patentable sense are seen over the claims formerly appealed by applicants, and rejection, accordingly, is restated and maintained as set forth previously.

CORRESPONDENCE INFORMATION

Any inquiry concerning this Office action or earlier communications from the examiner should be directed to John Cooney whose telephone number is (703)308-2433 (please note additional number below for non-merit based case and paper status inquiries, etc.). The examiner can normally be reached daily during normal business hours. The examiner's supervisor, James Seidleck, can be reached at (703) 308-2462. Any inquiry of a general nature or relating to the status of this application, particularly after allowance, should be directed to the Group 1700 Customer Service Center at 703-306-5665. The Official fax phone number(s) for this Group is/are (703) 872-9310 (for general), (703) 872-9311 (for After Final), and (703) 872-9309 (for customer service). Applicant is always invited to contact the examiner if additional help on any matter regarding this application is desired.

JMC
10-18-01



JOHN M. COONEY JR.
PRIMARY EXAMINER
GROUP 1700